



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

5 Applicant: Ching-Hua Chen et al.
Examiner: GEORGE, PATRICIA ANN Art Unit: 1765
App. No.: 10/709,552
Filing Date: 05/13/2004
Docket No.: LKSP0033USA

10

Title: METHOD OF FORMING BARRIER LAYER

To: Mail Stop 16
Commissioner for Patents
15 P.O. Box 1450
Alexandria VA 22313-1450

Subject: Request for a refund of incorrect deduction
for extension of time pursuant to 37 CFR 1.26

20

Dear Sir,

The applicant filed a Response to the advisory action
mailed on 05/18/2006 of the above-identified application on
25 06/14/2006. The period for reply expires on the mailing date
of the advisory action (Attachment 1), therefore the applicant
authorized the USPTO to charge \$120.00 for extension of one
month (Attachment 2). But the USPTO deducted extension fee
\$450.00 for response within two months (Attachment 3).

30

Please refund the balance \$330.00 of incorrect
deduction to the Deposit Account No. 50-3105 pursuant to

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37 CFR 1.26. Your quick response in refunding the charge will be greatly appreciated.

Respectfully submitted,

5 Winston Hsu

Date: JUN 26 2006

Winston Hsu, Patent Agent No. 41,526

P.O. BOX 506, Merrifield, VA 22116, U.S.A.

Voice Mail: 302-729-1562

Facsimile: 806-498-6673

10 e-mail : winstonhsu@naipo.com

Note: Please leave a message in my voice mail if you need to talk to me. (The time in D.C. is 12 hours behind the Taiwan time, i.e. 9 AM in D.C. = 9 PM in Taiwan.)

15



Attachment 1

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10709,552

Applicant(s)

CHEN ET AL.

Examiner

Patricia A. George

Art Unit

1765

-The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

THE REPLY FILED 3/31/06 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____ (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 112 2nd IP
6. ☒ Newly proposed or amended claim(s) 1,5,6 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1,5,6
Claim(s) objected to: _____
Claim(s) rejected: 7,9-15
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attachment
12. ☐ Note the attached Information Disclosure Statement(s) (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☒ Other: see Notice of References Cited

NADINE Q. NORTON
SUPERVISORY PATENT EXAMINER

Attachment >



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Approved for use through 07/31/2008, OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional)	
FY 2005		LKSP0033USA	
<small>(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)</small>			
Application Number 10/709,552		Filed 05/13/2004	
For METHOD OF FORMING BARRIER LAYER			
Art Unit 1765		Examiner GEORGE, PATRICIA ANN	
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.			
The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):			
<input checked="" type="checkbox"/>	One month (37 CFR 1.17(a)(1))	Fee \$120	Small Entity Fee \$60 \$ <u>120.00</u>
<input type="checkbox"/>	Two months (37 CFR 1.17(a)(2))	\$450	\$225 \$ _____
<input type="checkbox"/>	Three months (37 CFR 1.17(a)(3))	\$1020	\$510 \$ _____
<input type="checkbox"/>	Four months (37 CFR 1.17(a)(4))	\$1590	\$795 \$ _____
<input type="checkbox"/>	Five months (37 CFR 1.17(a)(5))	\$2160	\$1080 \$ _____
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.			
<input type="checkbox"/> A check in the amount of the fee is enclosed.			
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>50-3105</u> . I have enclosed a duplicate copy of this sheet.			
<small>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</small>			
I am the <input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).			
<input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>41,526</u>			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
Signature <u>Winston Hsu</u>		Date <u>06/14/2006</u>	
Typed or printed name <u>Winston Hsu</u>		Telephone Number <u>302-729-1562</u>	
<small>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</small>			
<input type="checkbox"/> Total of _____ forms are submitted.			

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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06/16	119	11307962	MTKP0350USA	8007	\$40.00	\$53,887.00
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06/16	315	60804931	ASTP0165USA	8021	\$40.00	\$53,447.00
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06/16	1131	11424536	MAVP0005USA	2111	\$250.00	\$53,122.00
06/16	1132	11424536	MAVP0005USA	2311	\$100.00	\$53,022.00
06/16	1133	11424537	REAP0199USA	1011	\$300.00	\$52,722.00
06/16	1134	11424537	REAP0199USA	1111	\$500.00	\$52,222.00
06/16	1135	11424537	REAP0199USA	1311	\$200.00	\$52,022.00
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06/19	51	11160070	ASEP0016USA	1504	\$300.00	\$49,462.00
06/19	52	10904155	NAUP0584USA	1501	\$1,400.00	\$48,062.00
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06/19	1361	11424876	AITP0037USA	2111	\$250.00	\$46,277.00
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06/19	1369	60805095	ASTP0167USA	1005	\$200.00	\$45,977.00
06/19	1370	60805096	ASTP0168USA	1005	\$200.00	\$45,777.00
06/19	1371	60805097	ASTP0169USA	1005	\$200.00	\$45,577.00
06/19	1372	60805098	ASTP0170USA	1005	\$200.00	\$45,377.00
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06/20	10	10710505	NAUP0555USA	1501	\$1,400.00	\$43,602.00
06/20	11	10710505	NAUP0555USA	1504	\$300.00	\$43,302.00
06/20	12	10906939	NAUP0655USA	1501	\$1,400.00	\$41,902.00
06/20	13	10906939	NAUP0655USA	1504	\$300.00	\$41,602.00
06/20	222	11425124	ACMP0326USA	8021	\$40.00	\$41,562.00



Dep & Ref

PTO/SB/21 (09-04)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/709,552	
	Filing Date	05/13/2004	
	First Named Inventor	Ching-Hua Chen	
	Art Unit	1765	
	Examiner Name	GEORGE, PATRICIA ANN	
Total Number of Pages in This Submission	6	Attorney Docket Number	LKSP0033USA

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input checked="" type="checkbox"/> Request for Refund	1. A copy of the Advisory Action Before the Filing of an Appeal Brief (PTOL-303)
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	2. A copy of petition for extension of time under 37 CFR 1.1361 (a) submitted on 06/14/2006
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	3. A copy of the deposit account statement
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	North America Intellectual Property Corporation		
Signature	<i>Winston Hsu</i>		
Printed name	Winston Hsu		
Date	JUN 26 2006	Reg. No.	41,526

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature	<i>Stephanie Lai</i>	
Typed or printed name	Stephanie Lai	Date
		JUN 26 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/22 (12-04)

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional)	
FY 2005 (Fee pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4016))		LKSP0033USA	
Application Number 10/709,552		Filed 05/13/2004	
For METHOD OF FORMING BARRIER LAYER			
Art Unit 1785		Examiner GEORGE, PATRICIA ANN	

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

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	Fee	Small Entity Fee	
<input checked="" type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ 120.00
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$ _____
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ _____
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$ _____

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-3105. I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 41,626

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Winston Hsu _____ 06/14/2006
Signature Date

Winston Hsu _____ 302-729-1562
Typed or printed name Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 25 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PAGE 4/8 * RCVD AT 6/14/2006 3:22:57 AM (Eastern Daylight Time) * SVR:USPTO-EFAXF-5/1 * DNIS:2738300 * CSID:18064986673 * DURATION (mm:ss):03:14

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10709552

06/14/2006 CNGUYEN2 00000054 503105

01 FC:1251 120.00 DA

08/11/2006 SDIRETA1 00000001 503105 10709552

01 FC:1251 120.00 DA

Document code: WFEE

United States Patent and Trademark Office
Sales Receipt for Accounting Date: 06/19/2006

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01 FC:1252 450.00 DA

Adjustment Date: 08/11/2006 SDIRETA1
7/19/2006 DFLOYD 00000001 503105 10709552
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